The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JULIE A. GESCHWENDER and MICHELE MURPHY-HOUSER

Appeal No. 2003-0448
Application No. 09/425,471

ON BRIEF

Before KRASS, BLANKENSHIP, and SAADAT, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-22, 24, and 27-30, which are all the claims remaining in the application.

We reverse.

BACKGROUND

The invention relates to detecting purchasing card fraud. A central fraud database is created for receiving potential fraud or "high risk" information. If a fraud match occurs during a transaction, the system sends a fraud alert to the client. Representative claim 1 is reproduced below.

> 1. A method for detecting purchasing card fraud during all phases of a purchasing card life cycle, the method comprising:
>
> obtaining contact event information from a client during a contact event;
>
> comparing the contact event information with fraud information used in known frauds and stored in a database to determine if there is a fraud match between the contact event information and the fraud information; and
>
> sending a fraud alert to the client if there is a fraud match between the contact event information and the fraud information.

The examiner relies on the following references:

Gopinathan et al. (Gopinatahan)	5,819,226	Oct. 6, 1998 (filed Sep. 8, 1992)

Schott et al. (Schott), The plastic thief: preventing credit card fraud, Credit Union Executive, v35, n3, p. 16 et seq. (including related articles), May 15, 1995.

Claims 1-22, 24, and 27-30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gopinathan and Schott.

We refer to the Final Rejection (Paper No. 8) and the Examiner's Answer (Paper No. 14) for a statement of the examiner's position and to the Brief (Paper No. 12) and the Reply Brief (Paper No. 15) for appellants' position with respect to the claims which stand rejected.

OPINION

Claims 1 and 14 are independent. The statement of the rejection applied against those claims (Final Rejection at 2) appears to rely on Gopinathan as teaching all the requirements of the independent claims. Schott appears to be relied upon as teaching limitations of the dependent claims, although claim 1 is also mentioned in relation to Schott.

Appellants argue in the Brief that the references fail to teach or suggest, in the language of instant claim 1, comparing the contact event information with fraud information used in known frauds and stored in a database to determine if there is a fraud match between the contact event information and the fraud information. Appellants provide examples of "contact events" such as application processing, card activation, etc. (Spec. at 4, ll. 11-16.) Consistent with the language of claim 1, appellants disclose a database for making direct comparisons between information acquired during a contact event with data elements in the database that comprise fraudulent names, fraudulent addresses, fraudulent phone numbers, etc. (See, e.g., spec. at 6, ll. 3-13.)

The examiner responds in the Answer (at 4) that Gopinathan teaches that contact information is compared with fraud information used in known frauds and stored in a database to determine if there is a fraud match between the contact event information and the fraud information, pointing to column 27, line 48 to column 28, line 24, and columns 25 through 26 of the reference. Appellants respond, in turn (Reply

Brief at 2-4) that Gopinathan is directed to detecting fraudulent transactions using a predictive model, and, in appellants' interpretation of the portions of the reference pointed out in the Answer, fails to teach the features in controversy.

After careful review of the entirety of the references, with particular emphasis on the portions pointed out in the Final Rejection and Answer, we agree with appellants there is no showing of disclosure or suggestion of comparing contact event information with fraud information used in known frauds and stored in a database to determine if there is a fraud match between the contact event information and the fraud information. Perhaps we are interpreting the claims more narrowly than the examiner's reading. However, in our estimation, interpreting the claims as broadly as the terms reasonably allow, a direct comparison is required between specific contact event information and specific fraud information used in known frauds to determine whether a match exists between the specific contact event information and the specific fraud information used in known frauds. The claims inherently require specific instances of information because the claims require information sufficient to determine if there is a fraud match.

Schott speaks to general problems related to credit card fraud, and provides an overview of specific applications aimed at frustrating fraud. Gopinathan teaches fraud detection using predictive modeling, which may be implemented in a real-time system that may maintain past transaction data with respect to a particular customer. Col. 27, l. 48 - col. 28, l. 24. However, in Gopinathan's system the current transaction data and the customer data are pre-processed to derive fraud-related variables which have been

empirically determined to be effective predictors of fraud, rather than using the relevant information for a fraud match as claimed by appellants. See, e.g., Gopinathan col. 29, ll. 12-17.

We are thus left to speculate as to how all the requirements of each respective independent claim may be regarded as taught by the evidence relied upon by the rejection. The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. § § 102 and 103. In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing In re Warner, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). See also In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (in a determination of unpatentability "the Board must point to some concrete evidence in the record in support of...[the]...findings").

We cannot sustain the rejection.

CONCLUSION

The rejection of claims 1-22, 24, and 27-30 under 35 U.S.C. § 103 as being unpatentable over Gopinathan and Schott is reversed.

REVERSED

ERROL A. KRASS
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

MAHSHID D. SAADAT
Administrative Patent Judge

) BOARD OF PATENT APPEALS AND INTERFERENCES

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